

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8971 of 2002

Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

STATE OF GUJARAT

Versus

GANGA KISA KODIYATAR

Appearance:

MR DIGANT JOSHI for Petitioner No. 1

MR KISHOR M PAUL for Respondent No. 1

CORAM : MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 17/03/2003

ORAL JUDGEMENT

1. Heard the learned counsel for the respondent parties.

2. The present petition has been filed by the State of Gujarat through the Assistant Geologist, Industries and Mines Department, Office of Collector, Porbandar, challenging the judgement and award passed by the learned Judge of Labour Court, Junagadh, in Reference (LCS) No.100/2002, whereby the Labour Court was pleased to

partly allow the reference and ordered reinstatement of the respondent workman on his original post with continuity of service and with 25% backwages. The case of the Department is that when the respondent workman was in service, he had met with an accident while driving the jeep of the Department in which the jeep had become "non-use" and as there was no work available, his services were brought to an end.

3. Learned advocate Mr. Kishore M. Paul for the respondent submitted that the Department has purchased a new vehicle - Tata Sumo bearing No.GJ-18-G-1172, and that the Department has engaged a driver. Mr. Kishore Paul was granted time to find out as to whether the Department has engaged any new temporary or daily wager as a driver for the said new vehicle or any permanent employee is brought by transfer. Mr. Kishore Paul, learned Advocate filed an additional affidavit wherein it is specifically stated that the driver who is engaged for the vehicle is a permanent driver. The case of the Department that there is no work available, as there is no vehicle is substantiated.

4. The Department has not engaged any new daily wager or temporary driver so as to dispense with the services of the respondent workman. In view of the aforesaid discussion, the petition is required to be allowed. Accordingly the judgement and award of the Labour Court is hereby quashed and set aside. Rule is made absolute, with no order as to costs.

[RAVI R. TRIPATHI J.]

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